UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

FILED

February 22, 2024 CLERK, U.S. DISTRICT COURT WESTERN DISTRICT OF TEXAS

BY:	NM
	DEPUTY

HERBERT FEIST, $oldsymbol{\omega}$ Plaintiff,

v.

UNITED STATES OF AMERICA BY AND THROUGH ORTHOPEDIC, FT. HOOD HOSPITAL, ANETHESIALO-GIST, FT. HOOD HOSPITAL, and UNITED STATES OF AMERICA,

Defendants.

CIVIL NO. SA-23-CV-01017-OLG

ORDER

The Court has considered United States Magistrate Judge Elizabeth S. Chestney's Report and Recommendation (R&R), filed December 8, 2023, concerning the Motion to Dismiss filed by Defendant United States of America. (See R&R, Dkt. No. 9.)

Any party who desires to object to a Magistrate Judge's findings and recommendations must serve and file specific written objections within fourteen days after being served with a copy of the findings and recommendations. FED. R. CIV. P. 72(b)(2). The R&R was mailed by certified mail on December 8, 2023 (see Dkt. No. 10), and no objections have been filed.¹

Because no party has objected to the Magistrate Judge's findings or recommendations, the Court reviews the R&R for clear error. See United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989); cf. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which an objection is made.") After such review, the Court finds that the R&R is neither clearly erroneous

¹A party desiring to object to a magistrate judge's findings and recommendations must file and serve written objections within fourteen days after being served with the recommendations. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b)(2). Service is made to the last-known address of the party, and service by mail is complete upon mailing. FED. R. CIV. P. 5(b)(2)(C).

nor contrary to law. Accordingly, the Court **ACCEPTS** the Magistrate Judge's R&R (Dkt. No. 9) and, for the reasons set forth therein, Defendant's Motion to Dismiss (Dkt. No. 7) is **GRANTED** and Plaintiff's claims are **DISMISSED WITHOUT PREJUDICE**.

This case is **CLOSED**.

It is so **ORDERED**.

SIGNED this 22nd day of February, 2024.

ORLANDO L. GARCIA United States District Judge